

Ethan Preston (263295)
PRESTON LAW OFFICES
21001 N. Tatum Blvd., Ste. 1630-430
Phoenix, Arizona 85050
(480) 269-9540 (telephone)
(866-509-1197 (facsimile)
ep@eplaw.us

Robert M. Bramson (102006)
Michael S. Strimling (96135)
BRAMSON, PLUTZIK, MAHLER & BIRKHAUSER, LLP
2125 Oak Grove Road, Suite 120
Walnut Creek, California 94598
(925) 945-0200 (telephone)
(925) 945-8792 (facsimile)
rbramson@bramsonplutzik.com
mstrimling@bramsonplutzik.com

David C. Parisi (162248)
Suzanne Havens Beckman (188814)
PARISI & HAVENS LLP
15233 Valleyheart Drive
Sherman Oaks, California 91403
(818) 990-1299 (telephone)
(818) 501-7852 (facsimile)
dcparisi@parisihavens.com
shavens@parisihavens.com

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TIMOTHY and JEANNE DuFOUR and
KENNETH TANNER, individuals, on
their own behalves and on behalf of all
others similarly situated,

Plaintiffs,

v.

BE., LLC, DYNAMIC SHOWCASES,
LLC, California limited liability
companies, MONTEREY FINANCIAL
SERVICES, INC., a California
corporations, BE MARKETING
LIMITED, a private limited company
registered in England and Wales, ERIK
DeSANDO, BARRY FALCK, JACOB
STEINBECK, and DOES 1-100, inclusive,

Defendants.

No. 09-03770-CRB

Judge Charles R. Breyer

**STIPULATION AND PROPOSED
CASE MANAGEMENT ORDER**

STIPULATION AND ~~PROPOSED~~ CASE MANAGEMENT ORDER

Plaintiffs Timothy DuFour, Jeanne DuFour, and Kenneth Tanner, and Defendant Monterey Financial Services, Inc. (“these Parties”) respectfully submit this Stipulated Motion for a Case Management Order pursuant to Federal Rule 16 and Civil Local Rule 6-3. In support of this filing, these Parties state:

WHEREAS, on June 29, 2010, this Court established a briefing schedule which set the hearing date for the Defendants’ anticipated Motions for Summary Judgment (“Motions”) for November 5, 2010.

WHEREAS, on August 9, 2010, this Court entered a stipulated order continuing the hearing date for the Motions until December 3, 2010.

WHEREAS, these Parties have already exchanged some discovery,

WHEREAS, on September 3, 2010, this Court entered a stipulated order continuing the hearing date for Monterey’s Motion until March 4, 2010 in order to allow Plaintiffs and Monterey to conserve resources while they explored settlement and attended a mediation before Hon. Ronald Sabraw (Ret.) on September 30, 2010;

WHEREAS, these Parties have attempted mediation but were unable to settle the case because of their differing views about the existence or viability of certain claims;

WHEREAS, Plaintiffs’ position is that, if Be., LLC’s contracts violated California law, they can assert claims for rescission or restitution of funds paid to Monterey regardless of what Monterey knew about the contracts or Be., LLC;

WHEREAS, Monterey disagrees with Plaintiffs’ position;

WHEREAS, these Parties desire to avoid the cost and expense of potentially unnecessary litigation associated with active and aggressive discovery into the matters above, and to focus their resources and energies on the resolution of legal issues that may lead to the settlement or dismissal of this case; and

WHEREAS, Plaintiffs intend to file a motion for leave to amend their complaint to include claims that would expressly disavow any actual knowledge on Monterey’s part of the alleged illegality of Be., LLC’s contracts.

THEREFORE, the parties hereby stipulate that:

1. Plaintiffs shall file the opening briefing for Plaintiffs' Motion for Leave to File a Second Amended Complaint ("Plaintiffs' Motion") by November 5, 2010.

2. Monterey shall file its opposition brief by November 26, 2010.

3. Plaintiffs shall file their reply brief by December 3, 2010.

4. The hearing on Plaintiffs' Motion shall be held on December 17, 2010.

5. Formal discovery between Plaintiffs and Monterey shall be stayed until the Court rules on Plaintiffs' Motion. (Nothing shall prohibit Plaintiffs and Monterey from continuing to engage in informal discovery or from issuing subpoenas for the production of documents.)

6. The briefing schedule for Monterey's Motion for Summary Judgment shall be continued as follows: (a) Monterey shall file the opening brief for its Motion for Summary Judgment by April 8, 2011; (b) Plaintiffs shall file their opposition brief by May 6, 2011; (c) Monterey shall file any reply brief by May 13, 2011; and (d) the hearing on the Motion for Summary Judgment shall be held on June 3, 2011 at 10:00 a.m. before the Honorable Charles R. Breyer.

Dated: October 13, 2010

By: s/Ethan Preston

Ethan Preston (263295)
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Phoenix, Arizona 85050
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BIRKHAEUSER, LLP
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Sherman Oaks, California 91403

(818) 990-1299 (telephone)
(818) 501-7852 (facsimile)
dcparsi@parisihavens.com
shavens@parisihavens.com

Attorneys for Plaintiffs

Signed with authorization

Dated: October 13, 2010

By: /s/

Matthew R. Orr (202091)
Michael S. Orr (196844)
CALL & JENSEN
610 Newport Center Drive, Suite 700
Newport Beach, California 92660
(949) 717-3000 (telephone)
(949) 717-3100 (facsimile)
morr@calljensen.com
msorr@calljensen.com

*Attorneys for Monterey Financial Services,
Inc.*

Signed: October 14, 2010

